

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS
THE PULLMAN COMPANY

STATEMENT OF CLAIM: "For and in behalf of P. H. Wilson now employed by The Pullman Company as a sleeping car porter operating out of the New York Central District, because The Pullman Company did under date of March 7, 1938, discipline P. H. Wilson, unjustly and without sufficient reason by removing him from his assignment on Line No. 5529, New York to Chicago on the New York Central and Michigan Central Railroad."

EMPLOYES' STATEMENT OF FACTS: "Your Petitioner, the Brotherhood of Sleeping Car Porters, respectfully represents, and it is the duly authorized representative of all Pullman Porters, Attendants, and Maids employed by The Pullman Company, under provisions of the Railway Labor Act.

"Your Petitioner further represents that in such capacity, the Brotherhood of Sleeping Car Porters is the duly authorized representative of Porter P. H. Wilson, who is now employed by the Respondent Company, operating out of the New York Central District of New York City.

"Your Petitioner further sets forth that Porter Wilson is now, and for the past 14 years has been employed by The Pullman Company as a sleeping Car Porter operating out of the district aforementioned, and for several weeks prior to February 24, 1938 was operating on Line 5529, New York-Chicago on Michigan Central Train No. 40.

"The Petitioner further submits that Porter Wilson was taken out of service on the above mentioned line by District Superintendent G. M. Zimmer of the New York Central District on the 24th day of February, 1938 because of reports made by District Superintendent R. J. Ruddy of the Chicago Eastern District, alleging that under dates of January 31, 1938, February 4, 1938, February 13, 1938, February 18, 1938 and February 22, 1938, that he (Wilson) failed to have his car properly prepared for occupancy by passengers on the arrival in the station, and that he, (Wilson), wilfully violated instructions with respect to the receiving of passengers.

"The Petitioner further represents that on this particular line, according to the schedule of this line, Wilson was due to report in Chicago at 7:30 P. M. and was to receive passengers at 9:00 P. M., and the train leaves the station at 10:00 P. M.

"The Petitioner further submits that the one hour (1) and thirty (30) minutes preparatory time that is allowed on this particular run is insufficient to do the amount of work required to have this car ready for occupancy at 9:00 P. M.

"Your Petitioner further submits that because the respondent Company did not allow sufficient preparatory time on this particular run is the reason

OPINION OF BOARD: Two questions are presented in this case, viz:

- (1) Meaning and intent of Rule 53-Appeals.
- (2) Merits of the claim.

As to the meaning and intent of Rule 53, the Board holds that the time limitations of the rule mean calendar days, not excepting Sundays and Holidays, and begin to run from the dates of the decisions rendered by the Management. As the parties have not had a uniform understanding as to the application of these limitations, and as the excess over the prescribed time was only two days in making the final appeal in this case, the Board, in the interest of disposing of this particular case and giving the parties a definite interpretation to govern them in the future, accepts the case and renders decision on the merits.

On the merits, the question is whether Wilson performed the amount of work in the time allowed for preparation of his car, on the five dates cited, as could have been performed by the average porter. His failure to perform certain duties is admitted and in defense of such failure, the porter contends the allowed preparatory time was insufficient.

At the time this complaint arose, the parties were not in agreement as to the amount of time that should be allowed for preparation of cars in this line, however, in conformity with Rule 59, tests, jointly conducted by the parties, were then being made to determine the proper time allowance for various classes of service and lines, designed to preclude controversies of this kind in the future.

In view of the facts and circumstances in this particular case, the Board holds Wilson should now be restored to the assignment he occupied (Line 5529) prior to February 24, 1938, subject to the provisions of the Agreement, but without compensation for wage loss resulting from his removal from the line on February 24, 1938.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Porter P. H. Wilson shall be restored to the assignment he occupied (Line 5529) prior to February 24, 1938, subject to the provisions of the Agreement, but without compensation for wage loss resulting from his removal from the line on February 24, 1938.

AWARD

Porter P. H. Wilson shall be restored to the assignment he occupied in Line 5529 prior to February 24, 1938, subject to the provisions of the Agreement, but without compensation for wage loss resulting from his removal from the line on February 24, 1938.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 20th day of October, 1938.